

**MASTER DEPOSITORY AGREEMENT  
BETWEEN THE CITY OF LEANDER  
AND**

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The City of Leander hereinafter referred to as "CITY", has selected \_\_\_\_\_, duly organized and authorized by law to do banking in the State of Texas and now carrying on such business in said State, hereinafter referred to as "BANK", and designated BANK as a depository for certain of time and demand deposits of the CITY. CITY designates BANK as a depository beginning \_\_\_\_\_ and continuing until this Agreement has been canceled in accordance with provisions hereof.

BANK agrees to act as depository for those funds in accordance with applicable law and to pledge securities to collateralize daily all CITY time and demand deposits to the extent not insured by the Federal Deposit Insurance Corporation (FDIC) or its successor, by pledging book-entry securities ("Collateral") of the type specified by Texas law, including Chapter 2257 of the Texas Government Code, and further CITY restrictions as set by the "Pledge Agreement" between the CITY and BANK, a copy of which is attached hereto.

The controlling documents for the relationship between the BANK and the CITY and all services to be provided in that relationship including applicable fees for all services (the "Controlling Documents") are, in priority order:

1. Master Depository Agreement;
2. Pledge Agreement;
3. Custody Agreement between the BANK and CUSTODIAN;
4. City's Request for Proposal dated \_\_\_\_\_, (the "RFP") including the City's General Contract Conditions;
5. the BANK'S Response to the RFP dated \_\_\_\_\_ (the "PROPOSAL"); and
6. Applicable BANK services agreements service descriptions, and account and service documentation (collectively, "SERVICE AGREEMENTS")

These documents are attached to and made a part of this Master Depository Agreement. Should any conflict arise among the terms of two or more Controlling Documents, such Controlling Documents will govern in the order set forth above.

BANK and CITY may from time to time enter into new SERVICE AGREEMENTS with respect to specific treasury management services as are deemed necessary to further define the rights and duties of the BANK and CITY with regard to certain defined services which may include service termination dates, authorization designations and codes, or such other covenants as required for the proper implementation of the proposed services. Such SERVICE AGREEMENTS shall be added to and become a part of this Agreement, are subordinate to the Master Depository Agreement, and should any conflict arise, the terms of this Master Depository Agreement shall prevail.

**I. Designation of Custodian**

BANK and CITY, by execution of the Pledge Agreement, have designated \_\_\_\_\_ (“CUSTODIAN”) to hold the any necessary collateral in custody as set forth in the Pledge Agreement.

**II. Funds on Deposit**

The CITY shall have the power at all times to determine and designate the character and amount of the funds which will be deposited in the BANK. CITY deposits shall never be the subject of any garnishment or attachment, and BANK shall not recognize any attempt to garnish or attach same or be a party to any action.

**III. Designation of Authorized Representatives**

During the term of this Agreement, the CITY will through appropriate action of its City Council, designate representatives, who individually or jointly will be authorized to represent and act on behalf of the CITY in any and all matters of every kind arising under this Agreement and appoint and designate from time to time a person or persons who may request withdrawals, create new accounts, and prepare orders for payment or transfers on behalf of the CITY.

**IV. Audited Financials**

BANK shall send to the CITY, on an annual basis, audited annual financial statements.

**V. Indemnification**

Any SERVICE AGREEMENTS or other BANK agreements, schedule, or disclosures are hereby modified to remove therefrom any agreement by CITY to indemnify the BANK and its affiliates, directors, officers, employees and agents and remove remedies available under law in the event of BANK negligence or breach of contract.

BANK shall hold CITY harmless from and shall indemnify CITY against any and all claims, demands, and causes of action of whatever kind or nature asserted by a third party and occurring or in any way incident to, arising out of, or in connection with any negligent or wrongful act or omission of the BANK, its agents, employees, or subcontractors done in conduct of this Agreement (hereinafter collectively referred to as “Claims”) and all losses, costs, penalties, damages and expenses, including but not limited to attorneys’ fees and other costs of defending against, investigating and settling the Claims; provided however if the injuries or damages result from the negligence or willful misconduct of both BANK, its agents, employees or subcontractors, and the CITY, its officers, employees, or agents (other than BANK and agents and subcontractors hereunder), this indemnity shall apply to the percentage of such injuries or damages that are caused by the concurrent negligence of each party.

Notwithstanding any provision of this Agreement stating that CITY waives or limits CITY’S right to make a claim against BANK or exculpates BANK from liability or limits BANK’S liability, such a waiver, limitation, or exculpation shall be effective only to the extent authorized by the laws of the State of Texas.

Notwithstanding any provision in any Exhibit to this Agreement stating that CITY will indemnify or hold harmless BANK, CITY shall not be obligated to indemnify and hold the BANK harmless. Notwithstanding any provision in any Exhibit to this Agreement stating that CITY will pay attorneys' fees incurred by BANK, CITY shall not be obligated to pay attorneys' fees.

**VI. Fees**

Determination of charges for services rendered by BANK will be based on Attachment A of the PROPOSAL dated \_\_\_\_\_. Fees for new services not defined on the PROPOSAL shall be negotiated by the BANK and CITY and mutually agreed upon in writing but in no case shall the charge be in excess of the then current published price by the BANK.

**VII. Termination**

Any party to this Agreement shall have the right to terminate this Agreement by advance written notice to the other of its election to do so, and this Agreement shall be void from and after the expiration of ninetydays after the receipt of such notice, provided all provisions of this agreement have been fulfilled. The BANK will automatically terminate this Agreement when CITY has not required COLLATERAL coverage for one year. The CITY will be notified in writing of this termination

This Agreement shall continue and remain in full force and effect and shall be binding on BANK and its successors and assigns until such time as (a) all deposits have been paid in full to the CITY or otherwise paid as instructed by CITY, and (b) the Master Depository Agreement is no longer in effect.

**VIII. Notices**

Any notice required to be given to BANK in writing shall be sufficient if mailed to the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any notice required to be given to CITY in writing shall be sufficient if mailed to the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Either party may change the above address through written notification by facsimile or by such other means as is consistent with the usual means of notifications.

**IX. Miscellaneous**

The laws of the State of Texas shall govern this Agreement. Venue on any dispute arising out of this agreement shall be at Williamson County, Texas, the place where performance is primarily to occur.

In the event of any dispute hereunder, the parties shall first resort to mediation, to be held in Leander , Texas, before a mediator or mediators acceptable to the parties and in accordance with Chapter 154 of the Texas Civil Practice and Remedies Code.

Neither the consummation of the transactions contemplated in this Agreement, the delay or omission of a party to exercise any of its rights hereunder, nor any investigation or disclosure of any party, shall affect the liability of the parties to one another for breaches of this Agreement or prevent any party from relying upon the representations and warranties made in this Agreement.

The headings in this Agreement are for convenience only and should not be used in interpreting this Agreement. If any provisions of this Agreement is found to be illegal or unenforceable under applicable law, that provision shall be deemed reformed so as to be enforceable to the extent permitted by law, or if that is not possible, this Agreement shall be read as if that provisions was never a part of it and the remainder of the Agreement will be enforceable.

No amendment or modification of this Agreement or waiver of any right hereunder shall be binding on any party hereto unless it is in writing and is signed by all of the parties hereto.

This Agreement including all exhibits or schedules constitutes the full and entire understanding and agreement between the parties and supersedes any prior or contemporaneous written or oral agreements between the parties. Except as expressly provided in this Agreement, it may not be amended, waived, discharged, or terminated except by a written instrument signed by both parties.

This agreement has been executed under the terms of Financial Institutions Resource and Recovery Enforcement Act ("FIRREA") and authorized by resolution of the BANK Board or BANK Loan Committee.

EXECUTED, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by the undersigned duly authorized officers.

**FOR THE BANK:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name (Printed)

**FOR THE CITY:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name (Printed)

Board or Loan Committee Resolution Number and Date: \_\_\_\_\_